

**Before the  
FEDERAL COMMUNICATIONS COMMISSION DA 96-1508  
Washington, D.C. 20554**

In the Matter of	)	MM Docket No. 96-191
	)	
Charles B. Moss, Jr.	)	
	)	
Licensee of Station KRKE(AM)	)	
Aspen, Colorado	)	
	)	
Order to Show Cause Why the	)	
License for Station KRKE(AM)	)	
Aspen, Colorado Should Not	)	
be Revoked	)	

**ORDER TO SHOW CAUSE  
AND  
HEARING DESIGNATION ORDER**

**Adopted: August 28, 1996**

**Released: September 10, 1996**

By the Assistant Chief, Audio Services Division:

1. The Assistant Chief, Audio Services Division, Mass Media Bureau, has before him for consideration: (a) a license held by Charles B. Moss, Jr. for Station KRKE(AM), Aspen, Colorado, and (b) the results of an investigation into KRKE(AM)'s silent status.<sup>1</sup>

2. The Commission's records indicate that KRKE(AM) has been off the air since May 25, 1993, and that the special temporary authority permitting the station to remain silent expired June 5, 1995.<sup>2</sup> The licensee apparently has been attempting to donate the station's facilities to the Aspen School District for use as a teaching tool for the community's students. However, Mr. Moss has not requested an extension of the station's silence authorization since its expiration in 1995. Thus, KRKE(AM) has been off-air for over three years and presently

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<sup>1</sup> The Mass Media Bureau has been delegated authority to issue and release Show Cause Orders in cases involving silent broadcast stations. See Debrine Communications, Inc., 7 FCC Rcd 2118 (1992).

<sup>2</sup> KRKE(AM)'s license expires on April 1, 1997 (File No. BR-891129ZU, granted March 23, 1990).

is not authorized to remain silent. Consequently, Mr. Moss is in apparent violation of Sections 73.1740(a)(4)<sup>3</sup> and 73.1750<sup>4</sup> of the Commission's Rules.

3. Accordingly, IT IS ORDERED, That pursuant to Section 312(a)(3) and (4) of the Communications Act of 1934, as amended, Charles B. Moss, Jr. IS DIRECTED TO SHOW CAUSE why the license for Station KRKE(AM) should not be REVOKED, at a hearing to be held at a time and location specified in a subsequent Order, upon the following issues:

- (a) To determine whether Charles B. Moss, Jr. has the capability and intent to expeditiously resume broadcast operations of KRKE(AM) consistent with the Commission's Rules.
- (b) To determine whether Charles B. Moss, Jr. has violated Sections 73.1740 and/or 73.1750 of the Commission's Rules.
- (c) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether Charles B. Moss, Jr. is qualified to be and remain the licensee of Station KRKE(AM).

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<sup>3</sup> Section 73.1740(a)(4) provides:

"In the event that causes beyond the control of a licensee make it impossible to adhere to the operating schedule of this section or to continue operating, the station may limit or discontinue operation for a period of not more than 30 days without further authority from the FCC. Notification must be sent to the FCC in Washington, D.C. not later than the 10th day of limited or discontinued operation. During such period, the licensee shall continue to adhere to the requirements in the station license pertaining to the lighting of antenna structures. In the event normal operation is restored prior to the expiration of the 30 day period, the licensee will so notify the FCC of this date. If the causes beyond the control the licensee make it impossible to comply with the allowed period, an informal written request shall be made to the FCC no later than the 30th day for such additional time as may be deemed necessary."

Section 73.1750 provides:

"The licensee of each station shall notify the FCC in Washington, D.C. of permanent discontinuance of operation at least two days before operation is discontinued. Immediately after discontinuance of operation, the licensee shall forward the station license and other instruments of authorization to the FCC, Washington, D.C. for cancellation."

4. IT IS FURTHER ORDERED, That, pursuant to Section 312(d) of the Communications Act of 1934, as amended, both the BURDEN OF PROCEEDING with the introduction of evidence and the BURDEN OF PROOF with respect to the issues specified above shall be upon the MASS MEDIA BUREAU.

5. IT IS FURTHER ORDERED, That to avail itself of the opportunity to be heard, the licensee, pursuant to Section 1.91(c) of the Commission's Rules, SHALL FILE with the Commission within thirty (30) days of the receipt of this Order a WRITTEN APPEARANCE stating that he will appear at the hearing and present evidence on the matters specified in the Order. If the licensee fails to file a written appearance within the time specified, or within thirty (30) days of receipt of this Order the licensee files a written statement expressly waiving its right to a hearing, the licensee's right to a hearing SHALL BE DEEMED TO BE WAIVED. In the event the right to a hearing is waived, the Presiding Judge, or the Chief Administrative Law Judge if no Presiding Judge has been designated, SHALL TERMINATE the hearing proceeding and CERTIFY this case to the Commission in the regular course of business, and an appropriate Order shall be entered.<sup>5</sup>

FEDERAL COMMUNICATIONS COMMISSION

Stuart B. Bedell  
Assistant Chief, Audio Services Division  
Mass Media Bureau

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<sup>5</sup> The Mass Media Bureau has been delegated authority to issue Revocation Orders in cases involving silent broadcast stations. See Radio Northwest Broadcasting Company, 4 FCC Rcd 596, n.3 (1989).